

Introduced by Senator Dutton

February 15, 2011

An act to add Section 11343.10 to the Government Code, and to add Sections 17053.91 and 23649.1 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 357, as introduced, Dutton. Personal and corporate income tax: tax credit: depreciable property.

The Personal Income Tax Law and the Corporation Tax Law authorize various deductions in computing the income that is subject to the taxes imposed by those laws, and authorizes credits against the taxes imposed by those laws. Existing law authorizes a taxpayer to deduct from income any remaining depreciation amount whenever depreciable property becomes obsolete, including as the result of regulatory or legislative action.

This bill would allow a refundable credit in the amount equal to the depreciation deduction a taxpayer would otherwise be entitled should a state agency regulation render depreciable property obsolete. This bill would condition payment of any refundable portion of the credit upon a future appropriation by the Legislature, and prohibit the state agency regulation regarding depreciable property from taking effect until such appropriation is made, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 11343.10 is added to the Government Code, to read:

11343.10. (a) A state agency shall not promulgate any new regulation that would render tangible property obsolete unless an appropriation has been made for a tax credit pursuant to Sections 17053.91 and 23649.1 of the Revenue and Taxation Code.

(b) For purposes of this section, “tangible property” means property described in Section 167(a) of the Internal Revenue Code.

SEC. 2. Section 17053.91 is added to the Revenue and Taxation Code, to read:

17053.91. (a) There shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount equal to the depreciation deduction for the taxable year to which a taxpayer would have otherwise been entitled under this part had a state agency not promulgated a regulation, described in Section 11343.10 of the Government Code, that rendered the tangible property obsolete.

(b) For purposes of this section, “tangible property” means property described in Section 167(a) of the Internal Revenue Code.

(c) In the case of a taxpayer whose credit provided under this section exceeds the taxpayer’s tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall, upon appropriation by the Legislature, be refunded to the taxpayer.

SEC. 3. Section 23649.1 is added to the Revenue and Taxation Code, to read:

23649.1. (a) There shall be allowed as a credit against the “net tax,” as defined in Section 23036, an amount equal to the depreciation deduction for the taxable year to which a taxpayer would have otherwise been entitled under this part had a state agency not promulgated a regulation, described in Section 11343.10 of the Government Code, that rendered the tangible property obsolete.

(b) For purposes of this section, “tangible property” means property described in Section 167(a) of the Internal Revenue Code.

(c) In the case of a taxpayer whose credit provided under this section exceeds the taxpayer’s tax liability computed under this part, the excess shall be credited against other amounts due, if any,

- 1 from the taxpayer and the balance, if any, shall, upon appropriation
- 2 by the Legislature, be refunded to the taxpayer.

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